

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,
Plaintiff,

vs.

Case No.07CR3405-W07MJ8976

Mario Raymond Fernandez (1),
Ernesto Flores-Blanco (2),

Defendants.

VIDEOTAPED DEPOSITION OF ALEJANDRO PORTILLO-MENDOZA

Taken at San Diego, California

Friday, May 23, 2008

Reported by Heidi A. Simpson - CSR

Certificate No. 13052



Alejandro Portillo-Mendoza - 5/23/2008

1 Q Was it one other smuggler?

2 A Yes.

3 Q And when you saw the movement of the person --
4 let me rephrase the question.

5 When you saw the person moving on the other side
6 of the fence, could you see that person's face?

7 A No.

8 MS. MITCHELL: Just a point of clarification.
9 The second time you came in, you stood on both smugglers
10 to come into the United States?

11 MR. LESHNER: Objection. It's been asked and
12 answered.

13 THE WITNESS: No.

14 MS. MITCHELL: Okay. You just stood -- you stood
15 on one smuggler to come in?

16 THE WITNESS: Yes.

17 MR. GILMORE: Was that in addition to standing on
18 the shoulders on the other smugglers, so you were three
19 tall. I thought we were almost done.

20 MR. LESHNER: We are.

21 Okay, Mr. Portillo, we are just about finished.
22 I just have a couple of documents to give you and then
23 we'll be done for the morning.

24 The first document that I'm going to hand to your
25 lawyer to give to you is a letter signed by me which

Alejandro Portillo-Mendoza - 5/23/2008

1 states that the government will pay for your expenses to
2 return to the United States for trial of this case, which
3 is scheduled for July 1st, 2008. And I'll mark a copy of
4 that letter as Exhibit 1.

5 (Plaintiff's Exhibit No. 1 was marked.)

6 MR. LESHNER: I'll let you review the letter with
7 your lawyer, but it essentially states among other things
8 that you can call the government collect or your lawyer to
9 make the arrangements for you to come back to testify at
10 trial.

11 I'm also going to provide you with a letter that
12 is signed by me and that is a parole letter which will
13 allow you to enter the United States to testify at the
14 trial on July 1st. I'm going to mark a copy of that
15 letter as Exhibit 2 and provide it to counsel.

16 (Plaintiff's Exhibit No. 2 was marked.)

17 MR. LESHNER: And finally, I'm providing to your
18 attorney to provide for you a subpoena to appear in court
19 on July 1, 2008. And I'm marking a copy of that subpoena
20 as Exhibit 3.

21 (Plaintiff's Exhibit No. 3 was marked.)

22 BY MR. LESHNER:

23 Q Do you understand that the subpoena directs you
24 to return to the United States on July 1st, 2008?

25 A Yes.

Alejandro Portillo-Mendoza - 5/23/2008

1 Q Will you maintain contact with Mr. Gilmore to
2 make any necessary arrangements for you to return for
3 testimony at trial?

4 A Yes.

5 MR. LESHNER: I don't have anymore questions of
6 this witness. Any other matters?

7 MR. GILMORE: The last matter is the order or
8 release. Does anyone object to this witness being
9 released?

10 MS. MITCHELL: Continuing objection to the
11 witness being released.

12 MR. GILMORE: All right. Then pursuant to the
13 order setting forth this ~~deposition~~ referring to
14 paragraph 18.

15 MS. BAIZ: I would join in that objection.

16 MR. GILMORE: In which case pursuant to
17 paragraph 18 of the material witness deposition order, if
18 any party objects on the record to the release of the
19 material witness from custody, the objecting party must
20 request in writing a hearing on the issue before the
21 federal judge who is assigned the case or to such other
22 district judge or magistrate judge as they designate.

23 Notice of the request for hearing must by served
24 on all parties and filed with the Clerk of the Court
25 within 24 hours after the completion of the deposition,



U.S. Department of Justice

Karen P. Hewitt
United States Attorney
Southern District of California

David D. Leshner
Assistant United States Attorney

(619) 557-7163
Fax (619) 235-2757

San Diego County Office
Federal Office Building
880 Front Street, Room 6293
San Diego, California 92101-8893

Imperial County Office
321 South Waterman Avenue
Room 204
El Centro, California 92243-2215

May 23, 2008

ALEJANDRO PORTILLO-MENDOZA

ASUNTO: Estados Unidos de Norteamérica contra
Mario Raymond Fernandez, et al.
Caso Penal No. 07CR3405-W

Estimado Señor Portillo-Mendoza:

Nos dirigimos a usted para recordarle que ha sido citado (a) para comparecer ante el Tribunal Federal de Primera Instancia en relación al juicio entre los Estados Unidos de Norteamérica contra Victor Joaquin Cordova, Caso Penal No. 07CR3350-BTM. Por ser usted testigo esencial, se necesita su testimonio en el audiencia. Usted recibirá una cantidad compensatoria por su testimonio en el juicio.

La fecha de la audiencia se ha fijado para el 1 de Julio, 2008, no obstante esta fecha pudiera cambiar por lo cual debe ponerse en contacto con su abogado para confirmar la fecha del mismo antes de viajar a los Estados Unidos.

Si no pudiera costearse los gastos del viaje, póngase por favor en contacto con Jacqueline Diaz (619) 557-6541 para que se le reembolsen los gastos del mismo. Debe guardar los recibos de los gastos de su viaje a los Estados Unidos, recibos del transporte, alojamiento y comidas. No obstante y antes de emprender el viaje, debe ponerse en contacto con Jacqueline Diaz para que sea determinada la cantidad que puede gastar. La persona asignada organizará todo lo necesario para su viaje a los Estados Unidos y efectuará los arreglos necesarios para compensarle por los gastos incurridos durante su estancia en los Estados Unidos por el tiempo que el caso se encuentre en juicio. Para ponerse en contacto con Jacqueline Diaz, puede llamar a cobro revertido entre las 8:30 de la mañana y las 5 de la tarde hora standard del pacífico en los Estados Unidos y preguntar por Jacqueline Diaz.

GOVERNMENT EXHIBIT
CASE NO. 07CR3405
EXHIBIT NO. /

23 de Mayo 2004

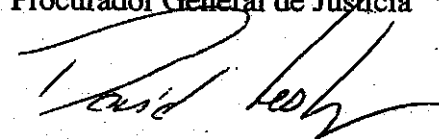
Pagina 2

07CR3405-W

A su llegada al Puerto Aduanero de Calexico, deberá presentarse en el servicio de Inmigración y Naturalización de los Estados Unidos para pasar inspección, así como deberá informar al Inspector que ha sido citado para comparecer en un juicio aquí en los Estados Unidos. Deberá mostrar al Inspector una copia de esta carta así como su citatorio. El Inspector de Inmigración realizará las diligencias necesarias para que usted pueda entrar legalmente a los Estados Unidos. Si tiene alguna pregunta en cuanto a lo expuesto anteriormente, póngase en contacto con su abogado.

Le saluda atentamente

KAREN P. HEWITT
Procurador General de Justicia



DAVID D. LESHNER
Subprocurador de Justicia

DDL: erd



U.S. Department of Justice

KAREN P. HEWITT
United States Attorney
Southern District of California

DAVID D. LESHNER
Assistant United States Attorney

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El Centro, California 92243-2215

May 23, 2008

ALEJANDRO PORTILLO-MENDOZA

In Re: United States v. Mario Raymond Fernandez
Criminal Case No. 07CR3405-W

Dear Mr. Portillo-Mendoza:

This letter will remind you that you were subpoenaed to appear in the United States District Court in San Diego, California, on July 1, 2008, in connection with the trial of United States v. Fernandez, et al. Criminal Case No. 07CR3405-W. Your testimony at trial is necessary as you are a material witness in this case. You will receive a witness fee for your testimony at trial.

Although a date of July 1, 2008, has been set, this date may change. Therefore, you must contact your attorney before you travel to the United States to confirm the trial date.

If you can not afford the costs of travel, please contact Jacqueline Diaz at (619) 557-6541. You will be reimbursed for your travel expenses. You must keep receipts for the costs of your travel, lodging and meals to the United States. However, before you travel, you must contact this office to determine how much money you may spend. Jacqueline Diaz will make arrangements for your travel to the United States as well as your expenses incurred while in the United States during the time that the case is at trial. To contact Jacqueline Diaz, you should call collect, between 8:30 a.m. and 5:00 p.m., Pacific Standard Time, in the United States at (619) 557-6541.

Mr. Portillo-Mendoza

In Re: United States v. Raymond Fernandez

Criminal Case No. 07CR3405-W

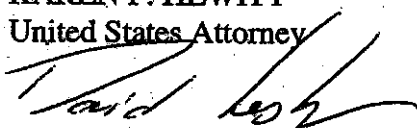
May 23, 2008

Page 2

Once you are informed of the date that you should travel and arrive in the United States, you should present yourself for inspection to the United States Immigration and Naturalization Service. You should inform the inspector that you have been subpoenaed for trial here in the United States. You should show the inspector a copy of this letter and your subpoena. The immigration inspector will then make arrangements for you to legally enter the United States. If you have any questions regarding any of the above, you should contact your attorney.

Very truly yours,

KAREN P. HEWITT
United States Attorney



DAVID D. LESHNER
Assistant U.S. Attorney

DDL: erd



U.S. Department of Justice

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May 23, 2008

Via Facsimile - (619) 557-5394

District Director
 Immigration and Naturalization Service
 880 Front Street, Room 1234
 San Diego, California 92101-8834

FORM 6 GOVERNMENT EXHIBIT	
CASE NO.	07CR3405
EXHIBIT NO.	2

Re: U.S. v. Mario Raymond Fernandez, et al.
 Crim. No. 07CR3405-W
Material Witness: Alejandro Portillo-Mendoza

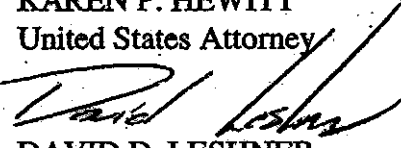
Dear Sir or Madam:

The United States District Court for the Southern District of California has ordered ALEJANDRO PORTILLO-MENDOZA to appear for trial in the above-entitled case on July 1, 2008, at 9:00 a.m. It is requested that you parole the above-named individual into the United States on that date to make the required court trial appearance. The witness will be brought into the United States by his attorney, Thomas Gilmore and he will be housed in San Diego at the expense of the Government during his stay.

If you have any questions, please call me at 557-7163. Thank you for your cooperation in this matter.

Very truly yours,

KAREN P. HEWITT
 United States Attorney


 DAVID D. LESHNER
 Assistant U.S. Attorney

ACKNOWLEDGMENT:

I hereby acknowledge my responsibility in advising the parolee to return to Mexico and to verify his/her departure to the Immigration and Naturalization Service by turning in his/her original parole Form I-94 on his/her return to Mexico. In event the parolee will not be able to return to Mexico as scheduled, I will so advise the Immigration and Naturalization Service.

United States District Court

~~SOUTHERN~~ DISTRICT OF ~~CALIFORNIA~~

UNITED STATES OF AMERICA

SUBPOENA

CASE NUMBER:

MARIO RAYMOND FERNANDEZ, et al.

07CR3405-W

TYPE OF CASE



CIVIL



CRIMINAL

SUBPOENA FOR



PERSON



DOCUMENT(S) or OBJECT(S)

TO:

ALEJANDRO PORTILLO-MENDOZA
(MATERIAL WITNESS)

YOU ARE HEREBY COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

PLACE

United States Courthouse
940 Front Street
San Diego, CA 92101

COURTROOM

Honorable Thomas J. Whelan
Courtroom 7, 3rd Floor

DATE AND TIME

August 19, 2008
9:00 a.m.

YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s):

☐ See additional information on reverse

This subpoena shall remain in effect until you are granted leave to depart by the court or by an officer acting on behalf of the court.

U.S. MAGISTRATE OR CLERK OF COURT

W. SAMUEL HAMRICK, Jr., Clerk

DATE

August 12, 2008

(BY) DEPUTY CLERK

This subpoena is issued upon application of the:



Plaintiff



Defendant



U.S. Attorney

QUESTIONS MAY BE ADDRESSED TO:

David D. Leshner,
Assistant U.S. Attorney's Office *DDL*
880 Front Street, Room 6293
San Diego, CA 92101 (619) 557-7163 *erd/DDL*
ATTORNEY'S NAME, ADDRESS AND PHONE NUMBER

*If not applicable, enter "none."

To be used in lieu of A089

FORM OBD-226
JAN 86

* * * COMMUNICATION RESULT REPORT (AUG. 12. 2008 4:10PM) * * *

TTI

TRANSMITTED/STORED AUG. 12. 2008 4:09PM
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REASON FOR ERROR OR LINE FAIL
R-1) HANG UP OR NO ANSWERE-2) BUSY
E-4) NO FACSIMILE CONNECTION**UNITED STATES
ATTORNEY'S
OFFICE**

SOUTHERN DISTRICT OF CALIFORNIA

*San Diego County Office
880 Front Street, Rm 6293
San Diego, CA 92101-8893**Imperial County Office
516 Industry Way
Suite C
Imperial, CA 92251***FACSIMILE COVER SHEET**

TRANSMITTED BY:		Esmeralda Diaz ext. 6148		TIME:	4:00 p.m.
				DATE:	August 12, 2008
TO:	Tom Gilmore, Esq.				
ORGANIZATION:					
PHONE NUMBER:				FAX NUMBER:	((619) 426-4446
NUMBER OF PAGES (including this cover sheet): 2					
Please see attached subpoena re: <u>United States v. Flores-Blanco</u> Criminal Case: 07CR3405-W					
TRIAL : August 19, 2008 at 9:00 a.m. before the Hon. Thomas J. Whelan					
If you have any questions, please contact AUSA David Leshner at (619) 557-7163					
FROM:	David Leshner AUSA				
SECTION:	General Crimes Section				
PHONE NUMBER: (619) 557-7163			FAX NUMBER: (619) 235-2757		
NOTE: If you do not receive the total number of pages indicated above, please call the individual listed above. IMPORTANT: If this fax was erroneously sent to your fax number, please contact sending individual immediately.					